

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
Civil Action No. 3:13-cv-703-GCM**

**FMW/MJH AT 2604 HILLSBOROUGH
LLC,**

Plaintiff,

v.

**WSA CONSTRUCTION, LLC; ALL
SEASONS CLEANING SERVICE, INC.;
AMERICAN CONCRETE PUMPING,
INC.; ASSOCIATED FIRE PROTECTION,
INC.; BOYCO CORP. LLC; CAPITOL
RECYCLING, LLC; ENGLER, MEIER &
JUSTUS, INC. D/B/A CIRCLE SUPPLY
OF RALEIGH; CREGGER COMPANY,
INC.; E T SALES, INC. D/B/A CAROLINA
COUNTERS; EAGLE MAILBOX SALES,
INC.; ELITE FLOORING & DESIGN,
INC.; FATHER AND SON PAINTING
CUSTOM PAINTING; FRANCO
MASONRY CONCRETE, INC.; GERDAU
AMERISTEEL US INC.; JRF
MECHANICAL, INC.; MAZZ WELDING
& FABRICATION, INC.; ORLANDO
CABALLERO D/B/A OC DRYWALL &
STUCCO; PINNACLE FIRE SYSTEMS,
INC.; RALEIGH WATERPROOFING,
INC.; SCHINDLER ELEVATOR
CORPORATION; SUNBELT RENTALS,
INC.; SUPERIOR WATERPROOFING,
INC.; TALBERT BUILDING SUPPLY,
INC.; TRIANGLE NORTH EXTERIORS,
INC.; AND ZOCAM PLUMBING, INC.,**

Defendants.

ORDER

This matter is before the Court upon Plaintiff FMW/MJH at 2604 Hillsborough LLC's ("FMW") Motion to Strike the Brief of Defendant Orlando Caballero d/b/a OC Drywall & Stucco ("OC") in Opposition to the FMW Motion for Partial Summary Judgment. On October

22, 2015, FMW filed its Motion for Partial Summary Judgment, with supporting Brief and Declaration. FMW filed and served the Motion using the Court's ECF system. OC, through its counsel of record, is a registered user of the Court's ECF system, and received service of the FMW Motion via ECF notice. The ECF notice is clear that responses to the FMW Motion were due to be filed on or before November 9, 2015. OC neither requested of FMW nor sought from the Court any extension of its time to respond to the FMW Motion. Its Brief dated, filed and served via ECF on November 11, 2015 is therefore untimely.

IT IS THEREFORE ORDERED that FMW's Motion to Strike is hereby GRANTED.

Signed: December 11, 2015

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

